

From: Justin Guerrini

Fax: 13469804600

To:

Fax: (877) 498-8441

Page: 2 of 18

10/07/2020 12:46 PM

10/7/2020 11:07 AM

Marilyn Burgess - District Clerk Harris County

Envelope No. 46959969

By: Maria Rodriguez

Filed: 10/7/2020 11:07 AM

CAUSE NO. \_\_\_\_\_

**TAMMY MCKINNEY**  
**Plaintiff,****V.****THE KROGER CO. AND**  
**KROGER TEXAS L.P.**  
**Defendants.**§  
§  
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§  
§**IN THE DISTRICT COURT**\_\_\_\_\_**JUDICIAL DISTRICT****HARRIS COUNTY, TEXAS****PLAINTIFF'S ORIGINAL PETITION****TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES TAMMY MCKINNEY, INDIVIDUALLY**, hereinafter called Plaintiff,  
complaining of and about **THE KROGER CO. and KROGER TEXAS L.P.**, hereinafter called  
Defendants, and for cause of action shows unto the Court the following:

**I.****DISCOVERY CONTROL PLAN LEVEL**

1. Plaintiff intends that discovery be conducted under Discovery Level 2.

**II.****PARTIES AND SERVICE**

2. Plaintiff TAMMY MCKINNEY is an individual whose address is 9001 Jones Road, #1509, Houston, Texas 77065. The last three numbers of Plaintiff's social security number are 077. The last three numbers of Plaintiff's Texas Identification Card are 129.

3. Defendant THE KROGER CO., a corporation doing business in the State of Texas, may be served with process by serving its Registered Agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at the following address: 211 E. 7<sup>th</sup> Street, Suite

Tammy McKinney v. The Kroger Co. and Kroger Texas L.P.  
1 – Plaintiff's Original Petition

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620, Austin, Texas 78701-3218. Service of said Defendant as described above can be effected by private process service.

4. Defendant KROGER TEXAS L.P., a corporation doing business in the State of Texas, may be served with process by serving its Registered Agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at the following address: 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218. Service of said Defendant as described above can be effected by private process service.

### **III.**

#### **JURISDICTION AND VENUE**

5. The subject matter in controversy is within the jurisdictional limits of this court.

6. Plaintiff seeks:

a. Monetary relief of over \$200,000.00 but not more than \$1,000,000.00.

7. This court has jurisdiction over the parties because Defendants are corporations doing business in the State of Texas.

8. Venue in Harris County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

### **IV.**

#### **FACTS**

9. On or about December 17, 2019, Plaintiff was a customer at Defendants' supermarket located at 9330 Jones Road, Houston, Texas 77065.

10. As Plaintiff was walking through the store, she tripped and fell on a metal plate that was on the floor.

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11. As a direct result of the incident, Plaintiff TAMMY MCKINNEY was forced to seek medical treatment for her sustained injuries and incurred medical expenses as a result thereof.

**V.**

**PLAINTIFF'S CLAIM OF NEGLIGENCE**

**AGAINST DEFENDANTS**

12. Defendants had a duty to exercise the degree of care a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

13. Plaintiff's injuries were proximately caused by Defendants' negligent, careless, and reckless disregard of said duty.

14. The negligent, careless, and reckless disregard of duty of Defendants consisted of, but is not limited to, the following acts and omissions:

A. In that Defendants had actual or constructive knowledge of some condition on the premises which posed an unreasonable risk of harm; and

B. In that Defendants did not exercise reasonable care to eliminate or reduce the risk that proximately caused Plaintiff's injuries.

**VI.**

**DAMAGES FOR PLAINTIFF TAMMY MCKINNEY**

15. As a direct and proximate result of the occurrence made the basis of this lawsuit, and Defendants' acts as described herein, Plaintiff was caused to suffer a loss of, and seeks damages for, amounts within the jurisdictional limits of this Court.

16. As a result of the negligent conduct of Defendants, Plaintiff suffered bodily injuries. The injuries have had a serious effect on Plaintiff's health and well-being. As further result of the nature and consequences of Defendants' actions, Plaintiff has suffered great physical and mental

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pain, suffering, and anguish, and in all reasonable probability will continue to suffer in this manner for a long time in the future. As a direct and proximate result of the negligent conduct of Defendants, Plaintiff sustained injuries to her back and body in general.

17. As a result of the injuries sustained, Plaintiff has incurred reasonable and customary doctor and medical expenses to date for necessary medical treatment.

18. From the date of the incident in question until the time of trial, there are certain elements of damages provided by law that Plaintiff is entitled to have the court in this case to consider singularly, together, and combined with others to determine the sum of money that will fairly and reasonably compensate Plaintiff for her injuries, damages, and losses incurred and to be incurred in the future:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff TAMMY MCKINNEY for the necessary care and treatment of the injuries resulting from the incident complained of herein and such charges are reasonable and were usual and customary charges for such services in Harris County, Texas;
- B. Pain and suffering in the past and pain and suffering in the future;
- C. Mental anguish in the past;
- D. Mental anguish in the future;
- E. Medical expenses;
- F. Medical expenses in the future;
- G. Lost wages;

19. Because of the injuries sustained by Plaintiff in the occurrence made the basis of this suit, this cause is maintained. As a result of the serious injuries Plaintiff has sustained and

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other damages for which Plaintiff has previously pled, Plaintiff is entitled to recover damages from Defendants in this action in the form of monetary relief of over \$200,000.00 but not more than \$1,000,000.00 excluding post-judgment interest, depending on what the jury decides to award.

## **VII.**

### **JURY DEMAND**

20. Pursuant to Texas Rules of Civil Procedure 216, Plaintiff hereby requests a trial by jury.

## **VIII.**

### **PRE-JUDGMENT AND POST-JUDGMENT INTEREST**

21. Plaintiff seeks to recover pre-judgment and post-judgment interest herein.

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff prays that Defendants be cited to appear and answer herein and that upon trial of this cause, Plaintiff be awarded:

A. Judgment against Defendants, jointly and/or severally, for past medical expenses in the amount of Sixty-Two Thousand Three Hundred Dollars (\$62,300.00);

B. Judgment against Defendants, jointly and/or severally, for future medical expenses in an amount to be determined by the jury;

C. Judgment against Defendants, jointly and/or severally, for physical pain and suffering in the past in an amount to be determined by the jury;

D. Judgment against Defendants, jointly and/or severally, for physical pain and suffering in the future in an amount to be determined by the jury

E. Judgment against Defendants, jointly and/or severally, for mental anguish in the past in an amount to be determined by the jury;

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F. Judgment against Defendants, jointly and/or severally, for mental anguish in the future in an amount to be determined by the jury

G. Judgment against Defendants, jointly and/or severally, for lost wages in an amount to be determined by the jury;

H. Court costs;

I. Interest on said judgment at the legal rate from the date of judgment until paid;

J. Pre-judgment interest;

K. Together with such other and further relief, general and special, whether at law or in equity, to which Plaintiff may show herself justly entitled.

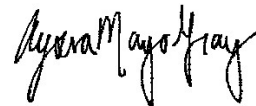
### **IX.**

#### **MAXIMUM AMOUNT OF DAMAGES**

22. Plaintiff pleads maximum amount of damages to be \$200,000.00 but not more than \$1,000,000.00 and demands judgment for all other relief to which the jury deems her entitled.

Respectfully Submitted,

**HOLLINS LAW GROUP PLLC**



By: \_\_\_\_\_  
Aysia Mayo-Gray  
Texas Bar No. 24109256  
5832 Highway 6 North  
Houston, TX 77084  
346.980.4600  
346.980.4610 (Fax)  
info@hollinslawgroup.com  
**Attorney for Plaintiff**  
**TAMMY MCKINNEY**

Tammy McKinney v. The Kroger Co. and Kroger Texas L.P.  
6 – Plaintiff's Original Petition

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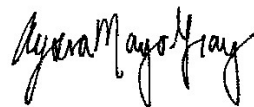
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**PLAINTIFF HEREBY DEMANDS TRIAL BY JURY**



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Aysia Mayo-Gray

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7 – Plaintiff's Original Petition

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CAUSE NO. \_\_\_\_\_

**TAMMY MCKINNEY**  
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**Defendants.**§  
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§**IN THE DISTRICT COURT**\_\_\_\_\_**JUDICIAL DISTRICT****HARRIS COUNTY, TEXAS****PLAINTIFF'S REQUEST FOR DISCLOSURE**

**TO:** Defendant, THE KROGER CO., by and through its Registered Agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218

COMES NOW PLAINTIFF, TAMMY MCKINNEY, and serves this Request for Disclosure to Defendant, THE KROGER CO., made under Texas Rule of Civil Procedure 194.2.

Respectfully submitted,



Aysia Mayo-Gray  
Texas Bar No. 24109256  
HOLLINS LAW GROUP PLLC  
5832 Highway 6 North  
Houston, Texas 77084  
346.980.4600  
346.980.4610 (Fax)  
info@hollinslawgroup.com  
**Attorney for Plaintiff**  
**TAMMY MCKINNEY**

From: Justin Guerrini

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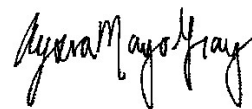
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been served on Defendant THE KROGER CO. simultaneously with the service of Plaintiff's Original Petition.



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Aysia Mayo-Gray

From: Justin Guerrini

Fax: 13469804600

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**PLAINTIFF'S REQUEST FOR DISCLOSURE  
TO DEFENDANT THE KROGER CO.**

- (a) The correct names of the parties to this lawsuit.
- (b) The names, addresses, and telephone numbers of any potential parties.
- (c) The legal theories and, in general, the factual bases of the responding party's claims or defenses.
- (d) The amount and any method of calculating economic damages.
- (e) The name, address, and telephone number of persons having knowledge of relevant facts, along with a brief statement of each identified person in connection with the case.
- (f) For all testifying experts:
  - (1) The expert's name, address, and telephone number;
  - (2) The subject matter on which the expert will testify;
  - (3) The general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to your control, the documents reflecting such information.
- (g) Any discoverable indemnity and insuring agreements.
- (h) Any discoverable settlement agreements.
- (i) Any discoverable witness statements.

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- (j) All medical records and bills that are reasonably related to injury or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such records and bills.
- (k) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of this case, all medical records and bills obtained by you by virtue of an authorization furnished by this party.
- (l) The name, address, and telephone number of any person who may be designated as a responsible third party.

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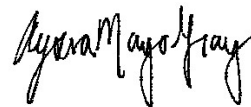
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**Defendants.**§  
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§**IN THE DISTRICT COURT**\_\_\_\_\_**JUDICIAL DISTRICT****HARRIS COUNTY, TEXAS****PLAINTIFF'S REQUEST FOR DISCLOSURE**

**TO:** Defendant, KROGER TEXAS L.P., by and through its Registered Agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218

COMES NOW PLAINTIFF, TAMMY MCKINNEY, and serves this Request for Disclosure to Defendant, KROGER TEXAS L.P., made under Texas Rule of Civil Procedure 194.2.

Respectfully submitted,



Aysia Mayo-Gray  
Texas Bar No. 24109256  
HOLLINS LAW GROUP PLLC  
5832 Highway 6 North  
Houston, Texas 77084  
346.980.4600  
346.980.4610 (Fax)  
info@hollinslawgroup.com  
**Attorney for Plaintiff**  
**TAMMY MCKINNEY**

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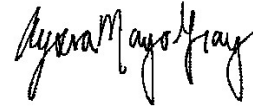
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been served on Defendant KROGER TEXAS L.P. simultaneously with the service of Plaintiff's Original Petition.



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Aysia Mayo-Gray

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**PLAINTIFF'S REQUEST FOR DISCLOSURE  
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- (a) The correct names of the parties to this lawsuit.
- (b) The names, addresses, and telephone numbers of any potential parties.
- (c) The legal theories and, in general, the factual bases of the responding party's claims or defenses.
- (d) The amount and any method of calculating economic damages.
- (e) The name, address, and telephone number of persons having knowledge of relevant facts, along with a brief statement of each identified person in connection with the case.
- (f) For all testifying experts:
  - (1) The expert's name, address, and telephone number;
  - (2) The subject matter on which the expert will testify;
  - (3) The general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to your control, the documents reflecting such information.
- (g) Any discoverable indemnity and insuring agreements.
- (h) Any discoverable settlement agreements.
- (i) Any discoverable witness statements.

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- (j) All medical records and bills that are reasonably related to injury or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such records and bills.
- (k) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of this case, all medical records and bills obtained by you by virtue of an authorization furnished by this party.
- (l) The name, address, and telephone number of any person who may be designated as a responsible third party.

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# Marilyn Burgess

## HARRIS COUNTY DISTRICT CLERK

201 Caroline | P.O. Box 4651 | Houston, Texas 77210-4651 | 832-927-5800 | www.hcdistrictclerk.com

Request for Issuance of Service

CASE NUMBER: \_\_\_\_\_ CURRENT COURT: \_\_\_\_\_

Name(s) of Documents to be served: Plaintiff's Original Petition and Request for Disclosure

FILE DATE: 10/07/2020 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: The Kroger Co.

Address of Service: 211 E. 7<sup>th</sup> Street, Suite 620

City, State & Zip: Austin, Texas 78701-3218

Agent (if applicable) Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- ☒ Citation   
 ☐ Citation by Posting   
 ☐ Citation by Publication   
 ☐ Citations Rule 106 Service  
☐ Citation Scire Facias   
 Newspaper \_\_\_\_\_  
☐ Temporary Restraining Order   
☐ Precept   
☐ Notice  
☐ Protective Order  
☐ Secretary of State Citation (\$12.00)   
☐ Capias (not an E-Issuance)   
☐ Attachment  
☐ Certiorari   
☐ Highway Commission (\$12.00)  
☐ Commissioner of Insurance (\$12.00)   
☐ Hague Convention (\$16.00)   
☐ Garnishment  
☐ Habeas Corpus   
☐ Injunction   
☐ Sequestration  
☐ Subpoena  
☐ Other (Please Describe) \_\_\_\_\_

(See additional Forms for Post Judgment Service)

SERVICE BY (check one):

- ☐ ATTORNEY PICK-UP (phone) \_\_\_\_\_  
☐ MAIL to attorney at: \_\_\_\_\_  
☐ CONSTABLE  
☐ CERTIFIED MAIL by District Clerk

☒ E-Issuance by District Clerk  
(No Service Copy Fees Charged)

**Note:** The email registered with EfileTexas.gov must be used to retrieve the E-Issuance Service Documents. Visit [www.hcdistrictclerk.com](http://www.hcdistrictclerk.com) for more instructions.

☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: \_\_\_\_\_ Phone: \_\_\_\_\_

☐ OTHER, explain \_\_\_\_\_

Issuance of Service Requested By: Attorney/Party Name: Aysia Mayo-Gray Bar # or ID 24109256

Mailing Address: 5832 Highway 6 North, Houston, TX 77084 Phone Number: (346) 980-4600

From: Justin Guerrini

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To:

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# Marilyn Burgess

## HARRIS COUNTY DISTRICT CLERK

201 Caroline | P.O. Box 4651 | Houston, Texas 77210-4651 | 832-927-5800 | www.hcdistrictclerk.com

### Request for Issuance of Service

CASE NUMBER: \_\_\_\_\_ CURRENT COURT: \_\_\_\_\_

 Name(s) of Documents to be served: Plaintiff's Original Petition and Request for Disclosure

 FILE DATE: 10/07/2020 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

 Issue Service to: Kroger Texas L.P.

 Address of Service: 211 E. 7<sup>th</sup> Street, Suite 620

 City, State & Zip: Austin, Texas 78701-3218

 Agent (if applicable) Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- |  |   |  |   |
|--|---|--|---|
| <input checked="" type="checkbox"/> Citation                   | <input type="checkbox"/> Citation by Posting          | <input type="checkbox"/> Citation by Publication | <input type="checkbox"/> Citations Rule 106 Service |
| <input type="checkbox"/> Citation Scire Facias                 | Newspaper _____                                       |  |   |
| <input type="checkbox"/> Temporary Restraining Order           | <input type="checkbox"/> Precept                      | <input type="checkbox"/> Notice                  |   |
| <input type="checkbox"/> Protective Order                      |   |  |   |
| <input type="checkbox"/> Secretary of State Citation (\$12.00) | <input type="checkbox"/> Capias (not an E-Issuance)   | <input type="checkbox"/> Attachment              |   |
| <input type="checkbox"/> Certiorari                            | <input type="checkbox"/> Highway Commission (\$12.00) |  |   |
| <input type="checkbox"/> Commissioner of Insurance (\$12.00)   | <input type="checkbox"/> Hague Convention (\$16.00)   | <input type="checkbox"/> Garnishment             |   |
| <input type="checkbox"/> Habeas Corpus                         | <input type="checkbox"/> Injunction                   | <input type="checkbox"/> Sequestration           |   |
| <input type="checkbox"/> Subpoena                              |   |  |   |
| <input type="checkbox"/> Other (Please Describe) _____         |   |  |   |

(See additional Forms for Post Judgment Service)

#### SERVICE BY (check one):

- |  |   |
|--|---|
| <input type="checkbox"/> ATTORNEY PICK-UP (phone) _____  | <input checked="" type="checkbox"/> E-Issuance by District Clerk                                  |
| <input type="checkbox"/> MAIL to attorney at: _____  | (No Service Copy Fees Charged)  |
| <input type="checkbox"/> CONSTABLE   | <b>Note:</b> The email registered with EfileTexas.gov must be                                     |
| <input type="checkbox"/> CERTIFIED MAIL by District Clerk  | used to retrieve the E-Issuance Service Documents.  |
|  | Visit <a href="http://www.hcdistrictclerk.com">www.hcdistrictclerk.com</a> for more instructions. |
| <input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____ |   |
| <input type="checkbox"/> OTHER, explain _____  |   |

 Issuance of Service Requested By: Attorney/Party Name: Aysia Mayo-Gray Bar # or ID 24109256

 Mailing Address: 5832 Highway 6 North, Houston, TX 77084 Phone Number: (346) 980-4600